



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING  
400 DEADERICK STREET  
NASHVILLE, TENNESSEE 37243-1403

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[www.tn.gov/humanservices](http://www.tn.gov/humanservices)

**BILL HASLAM**  
GOVERNOR

**DANIELLE W. BARNES**  
COMMISSIONER

June 1, 2018

Willis Nowell, Owner  
American Child Care Incorporated  
4431 Alcott Drive  
Nashville, TN 37215-4037

Dear Mr. Nowell,

The Department of Human Services (DHS) - Audit Services Division staff conducted an unannounced on-site monitoring review of the Child and Adult Care Food Program (CACFP) at American Child Care Inc. (Sponsor), Application Agreement number 00-146, on April 24, 2018. Additional information was requested and provided on April 27, 2018. The purpose of this review was to determine if the Sponsor complied with the *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, provider agreement, and applicable Federal and State regulations.

Based on our review of the Sponsor's records and information provided, the Sponsor had three feeding sites operating during the review period. American Child Care, Inc. 601 (**Nolensville Road**) and American Child Care, Inc. 602 (**Corbett Lane**) were selected as the sample sites.

**Background**

CACFP Sponsors utilize meal count sheets to record the number of breakfast, lunch, supper, and supplement meals served. Meals served by participating Sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP Sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) to seek reimbursement. We inspected meal counts sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements. In addition, we observed a lunch meal service at **Corbett Lane** on March 13, 2018, and a lunch meal service at **Nolensville Road** on March 29, 2018.

Our review of the Sponsor's records for March 2018 disclosed the following:

- 1. The Sponsor served meals outside of the approved serving time**

## Condition

### **Corbett Lane - sample site**

During our on-site monitoring visit on March 13, 2018, at **Corbett Lane**, we observed 35 meals served prior to the approved meal start time. The approved feeding time in TIPS was 11 - 11:30 am. The Sponsor claimed 57 lunch meals served for this meal.

As a result, 22 lunch meals served were disallowed. (See Exhibit B)

**Note:** The Sponsor agreed to change the time in TIPS for the approved meal service to 11:00 am - 12:00 pm. However, as of April 24, 2018, the change for the lunch meal service time had not been changed.

### **Nolensville Road - sample site**

During our on-site monitoring visit on March 29, 2018, at **Nolensville Road**, we observed six meals served prior to the approved meal start time. The approved feeding time was 11-11:30 a.m.

As a result, there were no meals disallowed due to the observed meals being creditable.

This is a repeat finding from a previous report dated October 8, 2015.

## Criteria

*Title 7 of the Code of Federal Regulations, Section 226.17(b)(4) states, "Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20...."*

*Title 7 of the Code of Federal Regulations, Section 226.17(b)(9) states, "Each child care center must maintain daily records of time of service meal counts by type (breakfast, lunch, supper, and snacks) served to enrolled children, and to adults performing labor necessary to the food service."*

## Recommendation

The Sponsor should ensure meals are served during the approved feeding time.

## **2. The Sponsor reported the number of participants in the free, reduced-price, and paid categories incorrectly**

### Condition

#### **Corbett Lane - sample site**

The Claim for Reimbursement for the test month for **Corbett Lane** reported 34 participants in the free category, 11 participants in the reduced-price category, and 42 participants in the paid category. However, based on our review of the Sponsor's records, we found there were 40 participants in the free category, nine participants in the reduced-price category, and 38 participants in the paid category.

- There were four participants reported in the paid category that were determined to be eligible for the free category based on either having a DHS child care certificate or income eligibility. These participants were reclassified as free.
- There were three participants reported in the reduced-price category that were determined to be income eligible for free. These participants were reclassified as free.
- There was one participant reported in the paid category that was determined to be income eligible for reduced-price. This participant was reclassified as reduced-price.
- There was one participant reported in the free category and the application was not determined by the official. This participant was reclassified as paid.

As a result, the Sponsor underreported the number of participants in the free category by six participants, overreported the participants in the reduced-price category by two, and overreported the participants in the paid category by four. (See Exhibit B)

#### **Nolensville Road - sample site**

The Claim for Reimbursement for the test month for **Nolensville Road** reported 19 participants in the free category, 14 participants in the reduced-price category, and 34 participants in the paid category. However, based on our review of the Sponsor's records, we found there were 23 participants in the free category, 14 participants in the reduced-price category, and 38 participants in the paid category.

The differences were based on the following:

- There was one participant reported in the paid category that was determined to be categorically eligible for free due to enrollment in the DHS child certificate program. This participant was reclassified as free.
- There were four participants underreported in the free category, and four participants underreported in the paid category.

There were 67 participants reported on the Claim for Reimbursement. However, based on our review of the Sponsor's records, we found there were 75 participants enrolled in the program.

As a result, the Sponsor underreported the number of participants in the free category by five participants and underreported the number of paid participants by three. (See Exhibit C)

This is a repeat finding from a previous report dated October 8, 2015.

#### **Criteria**

*Title 7 of the Code of Federal Regulations, Section 226.10(c)* states, "... In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim ..."

### Recommendation

The Sponsor should maintain all information used to determine eligibility, and ensure that each participant is classified and reported accurately based on categorical or income eligibility.

### **3. The Sponsor provided menus that did not meet USDA meal pattern requirements**

#### Condition

#### **Nolensville Road - sample site**

The Sponsor provided menus for the review period that were missing components. The menu deficiencies were as follows:

<b>Date</b>	<b>Menu</b>	<b>Missing Component</b>	<b>Disallowed Meals (# and type)</b>
03/02/18	Whole grain mini bagels w/ fruit spread and milk	fruit/vegetable	49 Breakfasts
03/02/18	Beef patties, mashed potatoes, green beans and milk	bread/grain	59 Lunches
03/06/18	Oatmeal w/whole grain toast and milk.	fruit/vegetable	36 Breakfasts
03/08/18	Low fat yogurt, w/ strawberries and orange juice	milk	44 Breakfasts
03/09/18	Whole grain mini bagels w/ fruit spread and milk	fruit/vegetable	44 Breakfasts
03/09/18	Beef patties, mashed potatoes, green beans and milk	bread/grain	56 Lunches
03/13/18	Oatmeal w/whole grain toast and milk	fruit/vegetable	49 Breakfasts
03/15/18	Low fat yogurt, w/ strawberries and orange juice	milk	44 Breakfasts
03/16/18	Whole grain mini bagels w/ fruit spread and milk	fruit/vegetable	46 Breakfasts
03/16/18	Beef patties, mashed potatoes, green beans and milk	bread/grain	56 Lunches
03/19/18	Grilled chicken, white beans, apple sauce and milk	bread/grain	57 Lunches
03/22/18	Low fat yogurt, w/ strawberries and orange juice.	milk	50 Breakfasts
03/26/18	Grilled chicken, white beans, apple sauce and milk	bread/grain	54 Lunches
03/29/18	Low fat yogurt, w/ strawberries and orange juice	milk	46 Breakfasts

Also, the Sponsor's menus did not reflect that a whole-grain rich component was served every day as required. There were no meals disallowed for this deficiency due to the one year grace period granted for Sponsors to conform to the updated meal patterns effective October 1, 2017.

As a result, 408 breakfasts and 282 lunches were disallowed. (See Exhibit C)

## Criteria

*Title 7 of the Code of Federal Regulations, Section 226.17(b)(4) states, "Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20 ..."*

*Title 7 of the Code of Federal Regulations, Section 226.20(c)(1) states, in part, "Fluid milk, vegetables or fruit, or portions of both, and grains are required components of the breakfast meal."*

*Title 7 of the Code of Federal Regulations, Section 226.20(c)(2) states, "Fluid milk, meat and meat alternatives, vegetable, fruits, and grains are required components in the lunch and supper meals."*

*Title 7 of the Code of Federal Regulations, Section 226.20(a)(4)(i)(A) states, "At least one serving per day, across all eating occasions of bread, cereals, and grains, must be whole grain-rich. Whole grain-rich foods contain at least 50 percent whole grains and the remaining grains in the food are enriched, and must meet the whole grain-rich criteria specified in FNS guidance."*

## Recommendation

The Sponsor should ensure menus meet the meal patterns established by the USDA.

### **4. The Sponsor did not provide documentation to support sufficient quantities of milk were purchased for all meals reported**

#### Condition

##### **Corbett Lane - sample site**

Based on the number of meals served with milk as a required component, **Corbett Lane** required a total of 9,882 ounces of milk after meals were disallowed. However, the Sponsor could only document the purchase of 7,040 ounces of milk, resulting in a shortage of 2,842 ounces of milk.

As a result, 479 breakfast meals served were disallowed. (See Exhibit B)

##### **Nolensville Road - sample site**

Based on the number of meals served with milk as a required component, **Nolensville Road** required a total of 7,154 ounces of milk after meals were disallowed. However, the Sponsor could only document the purchase of 6,912 ounces of milk, resulting in a shortage of 242 ounces of milk.

As a result, 40 breakfast meals served were disallowed. (See Exhibit C)

This is a repeat finding from a previous report dated October 8, 2015.

## Criteria

*Title 7 of the Code of Federal Regulations, Section 226.17(b)(4) states, "Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20...."*

*Title 7 of the Code of Federal Regulations, Section 226.20(c)(1) states, "Fluid milk, vegetables or fruit, or portions of both, and grains are required components of the breakfast meal."*

## Recommendation

The Sponsor should perform a month-end inventory for milk and maintain all receipts for food purchases to verify the required amount of milk was purchased and served.

### **5. The Sponsor provided menus showing juice was served as a component for more than one meal in a day**

#### Condition

The Sponsor provided menus that listed vegetable or fruit juice as a meal component for more than one meal in a day. The Sponsor provided menus with deficiencies as follows:

#### **Corbett Lane - sample site**

<b>Date</b>	<b>Menu Deficiency</b>
03/13/18	Breakfast: Banana nut muffins, apple juice, and milk. Snack: Cheese and wheat crackers, orange juice.
03/14/18	Breakfast: Wheat waffles, orange juice and milk. Snack: Whole wheat goldfish and apple juice.
03/15/18	Breakfast: Whole wheat oatmeal, apple juice and milk. Snack: Oatmeal cookies and orange juice.
03/27/18	Breakfast: Banana nut muffins, apple juice, milk. Snack: Cheese and wheat crackers, orange juice.
03/28/18	Breakfast: Wheat waffles, orange juice and milk. Snack: Whole wheat goldfish and apple juice.
03/29/18	Breakfast: Whole wheat oatmeal, apple juice and milk. Snack: Oatmeal cookies and orange juice.

#### **Nolensville Road - sample site**

<b>Date</b>	<b>Menus with Juice as a Component</b>
03/01/18	Breakfast: Low fat yogurt, w/ strawberries and orange juice. Lunch: Turkey sandwich w/cheese, carrots, mixed fruit and milk Snack: Oatmeal cookies, w/fruit and apple juice
03/08/18	Breakfast: Low fat yogurt, w/ strawberries and orange juice. Lunch: Turkey sandwich w/cheese, carrots, mixed fruit and milk Snack: Oatmeal cookies, w/fruit and apple juice
03/15/2018	Breakfast: Low fat yogurt, w/ strawberries and orange juice. Lunch: Turkey sandwich w/cheese, carrots, mixed fruit and milk Snack: Oatmeal cookies, w/fruit and apple juice

<b>Date</b>	<b>Menus with Juice as a Component</b>
03/22/18	Breakfast: Low fat yogurt, w/ strawberries and orange juice. Snack: Oatmeal cookies, w/fruit and apple juice
03/29/18	Breakfast: Low fat yogurt, w/ strawberries and orange juice. Snack: Oatmeal cookies, w/fruit and apple juice

There were no meals disallowed due to the one year grace period granted to Sponsors to conform to the revised CACFP meal pattern requirements effective October 1, 2017.

#### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.17(b)(4) states, "Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20...."*

*Title 7 of the Code of Federal Regulations, Section 226.20 (a)(3)(i) states, "... Fruit juice or vegetable juice may only be served at one meal, including snack, per day."*

#### Recommendation

The Sponsor should ensure menus meet the meal patterns established by the USDA.

### **6. The Sponsor did not complete monitoring as required**

#### **Corbett Lane - sample site**

#### Condition

During the Sponsor visit, we requested monitoring documentation from the Sponsor. The Sponsor could only document that two monitoring reviews were completed in the past 12 months.

#### Criteria

*Title 7 of the Code of Federal Regulations, Section 226.16(d)(4)(iii) states, "Sponsoring organizations must review each facility three times each year, except as described in paragraph (d)(4)(iv) of this section. In addition: (A) At least two of the three reviews must be unannounced; (B) At least one unannounced review must include observation of a meal service; (C) At least one review must be made during each new facility's first four weeks of Program operations; and (D) Not more than six months may elapse between reviews."*

#### Recommendation

The Sponsor should ensure that the required monitoring is completed timely, as required.

### **Technical Assistance Provided**

During our visit on April 24, 2018, the Sponsor requested technical assistance regarding child care ratios, and this request was forwarded to child care license specialists for further assistance. Also, information was provided regarding infant menus.

## **Disallowed Meals Cost**

Based on the review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in a total disallowed cost of \$1,135.97.

## **Corrective Action**

The Sponsor must complete the following actions within 30 days from the date of this report:

- Log into the Tennessee Information Payment System (TIPS) and revise the claim submitted for March 2018, which contains the verified claim data from the enclosed exhibits. **Please note that, if the claim is revised, TIPS will automatically deduct the overpayment from your next CACFP claim for reimbursement.** OR
- **If you are no longer participating in the CACFP program**, remit a check payable to the Tennessee Department of Human Services in the amount noted in the report for recovery of the amounts disallowed in this report. Please return the attached billing notice with your check; and
- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:

[AuditServices.CAPS.DHS@tn.gov](mailto:AuditServices.CAPS.DHS@tn.gov)

If you have questions relative to the corrective action plan please contact:

Allette Vayda, Director of Operations  
Child and Adult Care Food Program  
8th Floor Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243  
[Allette.Vayda@tn.gov](mailto:Allette.Vayda@tn.gov)  
(615) 313-3769

Please note that the amount of disallowed cost is subject to an interest charge. The interest charge will be waived if your revised claim within 30 days from the date of this report. If the revised claim is not completed by the 30-day deadline, an interest charge may be billed to your institution. Please mail your check and the billing notice to:

Child and Adult Care Food Program  
Fiscal Services  
11th Floor, Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243

In accordance with the federal regulation found at *7 CFR Part 226.6 (k)*, your institution may appeal the amount of disallowed cost identified in this monitoring report. The procedures for submitting an appeal are enclosed. The appeal must be submitted to:

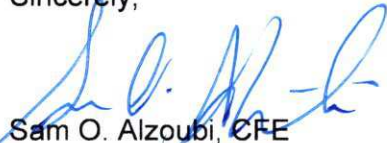


Tennessee Department of Human Services  
Appeals and Hearings Division, Clerk's Office  
P.O. Box 198996  
Nashville, TN 37219

If the Institution decides to appeal the amount of disallowed administrative and meals cost, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

We appreciate the assistance provided during this review. If you have any questions regarding this report, please contact Sean Baker, Audit Director 2, at 615-313-4727 or [Sean.Baker@tn.gov](mailto:Sean.Baker@tn.gov).

Sincerely,



Sam O. Alzoubi, CFE  
Director of Audit Services

Exhibits

cc: Monica McNeeley, Administrative Assistant, American Child Care Inc.  
Allette Vayda, Director of Operations, Child and Adult Care Food Program  
Debra Pasta, Program Manager, Child and Adult Care Food Program  
Elke Moore, Administrative Services Assistant 3, Child and Adult Care Food Program  
Constance Moore, Program Specialist, Child and Adult Care Food Program  
Marty Widner, Program Specialist, Child and Adult Care Food Program  
Comptroller of the Treasury, State of Tennessee

**EXHIBIT A****Sponsor of Affiliated Centers Program Data****Sponsor: American Child Care Inc.****Review Month/Year: March 2018****Total Reimbursement: \$12,510.93**

<b>Program Area</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total Number of Centers	3	3
Total CACFP Food Service Days	21	21
Total Amount of Food Costs	XXXXXXXX	\$2,798.39
Total Amount of Eligible Food and Nonfood Costs	XXXXXXXX	\$4,272.60

**EXHIBIT B****Verification of Affiliated Sponsored Center Data****Center: Corbett Lane**

<b>Program Area</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total CACFP Food Service Days	21	21
Total Attendance	1,577	1,577
Percentage of Free or Reduced-price Category	51%	56%
Number of Breakfasts Served	785	307
Number of Lunches Served	1,576	1,554
Number of Supplements Served	1,565	1,565
Number of Participants in Free Category	34	40
Number of Participants in Reduced-Price Category	11	9
Number of Participants in Paid Category	42	38
Total Number of Participants	87	87

**EXHIBIT C****Verification of Affiliated Sponsored Center Data****Center: Nolensville Road**

<b>Program Area</b>	<b>Reported on Claim</b>	<b>Reconciled to Documentation</b>
Total CACFP Food Service Days	21	21
Total Attendance	1,156	1,279
Percentage of Free or Reduced-price Category	49%	49%
Number of Breakfasts Served	928	480
Number of Lunches Served	1,151	869
Number of Supplements Served	1,129	1,129
Number of Participants in Free Category	19	23
Number of Participants in Reduced-Price Category	14	14
Number of Participants in Paid Category	34	38
Total Number of Participants	67	75



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**BILL HASLAM**

GOVERNOR

**DANIELLE W. BARNES**

COMMISSIONER

June 1, 2018

Willis Nowell, Owner  
American Child Care Incorporated  
4431 Alcott Drive  
Nashville, TN 37215-4037

**Notice of payment due to findings disclosed in the monitoring report for Child and Adult Care Food Program (CACFP)**

Institution Name:	American Child Care Inc.
Institution Address:	4431 Alcott Drive Nashville, TN 37215-4037
Agreement Numbers:	00-146
Amount Due:	\$1,135.97
Due Date:	July 2, 2018

Based on the monitoring report issued, by the Audit Services Division within the Tennessee Department of Human Services, the Community and Social Services- Food Programs- CACFP & SFSP management has agreed with the findings which require your institution to reimburse the Department of Human Services the disallowed cost noted in the report

Please remit a check or money order payable to the *Tennessee Department of Human Services* in the amount noted above by the due date to:

**Fiscal Services 11<sup>th</sup> Floor  
Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243-1403  
Tennessee Department of Human Services**

Please note that the disallowed meals cost/overpayment of the CACFP is subject to an interest charge. The interest charge will be waived if the payment is received by the due date. If payment is not received by the end of 5th day of the due date, an interest charge may be added to the original amount due and will be billed to your entity.

If you have any questions regarding this notice, please feel free to contact Allette Vayda, Director of Operations at (615) 313-3769 or [Allette.Vayda@tn.gov](mailto:Allette.Vayda@tn.gov).

Thank you for your attention

**Corrective Action Plan for Monitoring Findings**

**Instructions:** Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested. Enter your name, title and date of signature on the last page. Please sign your name in ink.  
**Please return ALL pages of the completed Corrective Action Plan form.**

**Section A. Institution Information**

Name of Sponsor/Agency/Site: American Child Care, Incorporated	Agreement No. 00146	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 4431 Alcott Drive Nashville, Tennessee 37215-4037

**Section B. Responsible Principal(s) and/or Individual(s)**

Name and Title: Willis Nowell, Owner	Date of Birth:     /     /
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**Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan**

Monitoring Report: 6/1/2018	Corrective Action Plan: 6/1/2018
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**Section D. Findings**

Findings:

1. The Sponsor served meals outside of the approved serving time
2. The Sponsor reported the number of participants in the free, reduced-price, and paid categories incorrectly
3. The Sponsor provided menus that did not meet USDA meal pattern requirements
4. The Sponsor did not provide documentation to support sufficient quantities of milk were purchased for all meals reported
5. The Sponsor provided menus showing juice was served as a component for more than one meal in a day
6. The Sponsor did not complete monitoring as required

The following measures will be completed within **30 calendar days** of my institution's receipt of this corrective action plan:

**Measure No. 1: The Sponsor served meals outside of the approved serving time**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

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When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

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**Measure No.2: The Sponsor reported the number of participants in the free, reduced-price, and paid categories incorrectly**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

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When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

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**Measure No. 3: The Sponsor provided menus that did not meet USDA meal pattern requirements**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

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When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

**Measure No. 4: The Sponsor did not provide documentation to support sufficient quantities of milk were purchased for all meals reported**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

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**Measure No. 5: The Sponsor provided menus showing juice was served as a component for more than one meal in a day**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

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When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

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**Measure No.6: The Sponsor did not complete monitoring as required**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

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When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

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I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame. I also understand that failure to fully and permanently correct the findings in my institution's CACFP or SFSP will result in its termination from the program, and the placement of the institution and its responsible principals on the National Disqualified List maintained by the U.S. Department of Agriculture.

Printed Name of Authorized Institution Official:

Position:

Signature of Authorized Institution Official: \_\_\_\_\_

Date:    /    /

Signature of Authorized TDHS Official: \_\_\_\_\_

Date:    /    /

## **APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES**

### **Appeal Procedures**

1. Pursuant to 7 CFR §226.6(k)(4), the TN Department of Human Services (TDHS) must provide administrative review procedures to institutions and responsible principals and responsible individuals as follows:

- (a) Annually to all institutions;
- (b) To an institution and to each responsible principal and responsible individual when the State agency takes any action subject to an administrative review as described in 7 CFR §226.6(k)(2); and
- (c) Any other time upon request.

2. Pursuant to 7 CFR 226.6(k)(3) and (k)(9), some administrative actions are not subject to administrative review. Those actions are listed in paragraph 2.(a). Other administrative actions may be administratively appealed. Those actions are listed in paragraph 2.(b) and (c). All institutions and sponsoring agencies may appeal any adverse administrative action listed in paragraph 2.(b) which are taken by the TDHS by requesting a fair hearing to appear in person to refute the action, or by requesting a review of written information in lieu of a fair hearing.

(a) Pursuant to 7 CFR Part 226.6 (k)(3) TDHS is prohibited from offering administrative reviews of the following actions:

- (i) FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.
- (ii) Determination of serious deficiency.
- (iii) State agency determination that corrective action is inadequate.
- (iv) Disqualification and placement on State agency list and National disqualified list.
- (v) Termination.
- (vi) State agency or FNS decision regarding removal from the National disqualified list.
- (vii) State agency's refusal to consider an application submitted by an institution or facility on the National disqualified list.

(b) Pursuant to 7 CFR Part 226.6(k)(9), an abbreviated appeal process is available for the following actions. TDHS must limit the administrative review to a review of written submissions by the TDHS and institutions or sponsoring agencies concerning the accuracy of the State agency's determination if the application was denied, or the State agency proposes to terminate the institution's agreement because:

- (viii) The information submitted on the application was false;
- (ix) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list;
- (x) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program;

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- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;

(c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.

4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16<sup>th</sup> calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.

7. To be considered for a fair hearing or for a review of written information in lieu of a fair

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hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:

(i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.

(ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.

(iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.

9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.

10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.

11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.

12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.

13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.

15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This



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continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

**Tennessee Department of Human Services**  
**Division of Appeals and Hearings**  
**PO Box 198996, Clerk's Office**  
**Nashville, TN 37219-8996**  
**Fax: (615) 248-7013 or (866) 355-6136**  
**E-mail: [AppealsClerksOffice.DHS@tn.gov](mailto:AppealsClerksOffice.DHS@tn.gov)**

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.